

110TH CONGRESS  
1ST SESSION

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To make ineligible for Federal contract awards any expatriated corporations and any companies that do business with, or own foreign subsidiaries that do business with, state sponsors of terrorism or foreign terrorist organizations.

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IN THE SENATE OF THE UNITED STATES

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Mr. BROWN introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To make ineligible for Federal contract awards any expatriated corporations and any companies that do business with, or own foreign subsidiaries that do business with, state sponsors of terrorism or foreign terrorist organizations.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Restoring Integrity  
5       in Contracting Act of 2007”.

1 **SEC. 2. DEFINITIONS.**

2 (a) CORPORATE EXPATRIATION TRANSACTION DE-  
3 FINED.—

4 (1) IN GENERAL.—In this Act, the term “cor-  
5 porate expatriation transaction”—

6 (A) means any transaction in which—

7 (i) a foreign corporation (referred to  
8 in this section as the “acquiring corpora-  
9 tion”) acquires, as a result of such trans-  
10 action, directly or indirectly substantially  
11 all of the properties held directly or indi-  
12 rectly by a domestic corporation; and

13 (ii) immediately after the transaction,  
14 more than 80 percent of the stock (by vote  
15 or value) of the acquiring corporation is  
16 held by former shareholders of the domes-  
17 tic corporation by reason of holding stock  
18 in the domestic corporation; and

19 (B) includes any transaction in which—

20 (i) a foreign corporation acquires, as a  
21 result of such transaction, directly or indi-  
22 rectly properties constituting a trade or  
23 business of a domestic partnership; and

24 (ii) immediately after the transaction,  
25 more than 80 percent of the stock (by vote  
26 or value) of the acquiring corporation is

1 held by former partners of the domestic  
2 partnership or related foreign partnership  
3 (determined without regard to stock of the  
4 acquiring corporation which is sold in a  
5 public offering related to the transaction).

6 (2) LOWER STOCK OWNERSHIP THRESHOLD  
7 FOR CERTAIN ACQUIRING CORPORATIONS.—Clause  
8 (ii) of paragraph (1)(A) shall be applied by sub-  
9 stituting “50 percent” for “80 percent” with respect  
10 to any foreign corporation if—

11 (A) such corporation does not have sub-  
12 stantial business activities (when compared to  
13 the total business activities of the expanded af-  
14 filiated group) in the foreign country in which  
15 or under the law of which the corporation is  
16 created or organized; and

17 (B) the stock of the corporation is publicly  
18 traded and the principal market for the public  
19 trading of such stock is in the United States.

20 (3) RULES FOR DETERMINING OWNERSHIP AND  
21 SCOPE OF TRANSACTION.—For purposes of this sub-  
22 section—

23 (A) a series of related transactions shall be  
24 treated as 1 transaction; and

1 (B) stock held by members of the ex-  
2 panded affiliated group which includes the ac-  
3 quiring corporation shall not be taken into ac-  
4 count in determining ownership.

5 (b) OTHER DEFINITIONS.—In this Act:

6 (1) DOMESTIC.—The term “domestic” means  
7 created or organized in the United States or under  
8 the law of the United States or of any State.

9 (2) EXECUTIVE AGENCY.—The term “executive  
10 agency” has the meaning given the term in section  
11 102 of title 31, United States Code.

12 (3) EXPANDED AFFILIATED GROUP.—The term  
13 “expanded affiliated group” means an affiliated  
14 group as defined in section 1504(a) of the Internal  
15 Revenue Code of 1986, without regard to section  
16 1504(b) of such Code.

17 (4) FOREIGN SUBSIDIARY.—The term “foreign  
18 subsidiary” means any foreign entity owned or con-  
19 trolled (directly or indirectly) by a potential con-  
20 tractor.

21 (5) STATE SPONSOR OF TERRORISM.—The term  
22 “state sponsor of terrorism” means any government  
23 which the Secretary of State has determined, for  
24 purposes of section 6(j) of the Export Administra-  
25 tion Act of 1979 (50 U.S.C. App. 2405(j)), section

1       620A of the Foreign Assistance Act of 1961 (22  
2       U.S.C. 2371), section 40 of the Arms Export Con-  
3       trol Act (22 U.S.C. 2780), or any other provision of  
4       law, to be a government that has provided support  
5       for acts of international terrorism.

6               (6) FOREIGN TERRORIST ORGANIZATION.—The  
7       term “foreign terrorist organization” means a for-  
8       eign terrorist organization designated under section  
9       219 of the Immigration and Nationality Act (8  
10      U.S.C. 1189).

11 **SEC. 3. INELIGIBILITY OF EXPATRIATED CORPORATIONS**  
12 **FOR FEDERAL CONTRACT AWARDS.**

13       (a) IN GENERAL.—No acquiring corporation or any  
14      subsidiary of such a corporation that enters into a cor-  
15      porate expatriation transaction after the date of the enact-  
16      ment of this Act shall be eligible to be awarded a Federal  
17      contract for the 5-year period beginning on the date that  
18      a disclosure regarding such transaction is made under sec-  
19      tion 5.

20       (b) PENALTIES FOR FAILURE TO DISCLOSE.—In the  
21      event that the Administrator for Federal Procurement  
22      Policy determines that an entity is ineligible for a Federal  
23      contract under subsection (a) as a result of a corporate  
24      expatriation transaction that the entity fails to disclose  
25      under section 5(a), the period of ineligibility—

1 (1) shall begin on the date that the Adminis-  
2 trator makes such determination; and

3 (2) may be extended by the Administrator for  
4 a period that is longer than the period otherwise ap-  
5 plicable under subsection (a) as a penalty for such  
6 failure to disclose.

7 (c) WAIVER.—

8 (1) IN GENERAL.—Subject to paragraph (2),  
9 the President may waive this section with respect to  
10 any specific contract if the President certifies to  
11 Congress that the waiver is required in the interest  
12 of national security.

13 (2) REPORT.—The President may not carry out  
14 a waiver under paragraph (1) until a period of 30  
15 days has expired after the President submits to Con-  
16 gress a report containing the certification described  
17 in paragraph (1) and setting forth the rationale for  
18 the waiver.

19 **SEC. 4. INELIGIBILITY FOR FEDERAL CONTRACT AWARDS**  
20 **OF COMPANIES DOING BUSINESS WITH, AND**  
21 **COMPANIES WITH FOREIGN SUBSIDIARIES**  
22 **DOING BUSINESS WITH, STATE SPONSORS OF**  
23 **TERRORISM OR FOREIGN TERRORIST ORGA-**  
24 **NIZATIONS.**

25 (a) INELIGIBILITY.—

1           (1) IN GENERAL.—Except as provided under  
2       paragraph (2), any entity doing business with, or  
3       having a parent or subsidiary doing business with, a  
4       state sponsor of terrorism or foreign terrorist orga-  
5       nization after the date of the enactment of this Act  
6       shall be ineligible to be awarded a Federal contract  
7       for the period described in subsection (b).

8           (2) EXCEPTION FOR ENTITIES DOING BUSINESS  
9       IN COMPLIANCE WITH THE TRADE SANCTIONS RE-  
10      FORM AND EXPORT ENHANCEMENT ACT OF 2000.—

11           (A) AUTHORITY UNAFFECTED.—Nothing  
12       in this section shall be construed to prohibit or  
13       restrict an entity from selling food, agricultural  
14       commodities, medicine, or medical products to a  
15       state sponsor of terrorism or foreign terrorist  
16       organization pursuant to section 906 of the  
17       Trade Sanctions Reform and Export Enhance-  
18       ment Act of 2000 (22 U.S.C. 7205).

19           (B) ELIGIBILITY FOR CONTRACTS UNAF-  
20       FECTED.—No entity selling food, agricultural  
21       commodities, medicine, or medical products to a  
22       state sponsor of terrorism or foreign terrorist  
23       organization in full compliance with the require-  
24       ments of section 906 of the Trade Sanctions  
25       Reform and Export Enhancement Act of 2000

1 (22 U.S.C. 7205), or any parent or subsidiary  
2 of such entity, shall be deemed ineligible to be  
3 awarded a Federal contract under subsection  
4 (a) as a result of conducting such business.

5 (b) PERIOD OF INELIGIBILITY.—

6 (1) DURATION.—The period of ineligibility re-  
7 ferred to in subsection (a)(1), as determined by the  
8 Administrator for Federal Procurement Policy, in  
9 cooperation with the Secretary of State, shall be—

10 (A) 5 years for a first offense;

11 (B) 10 years for a second offense; and

12 (C) 15 years for any offense after a second  
13 offense.

14 (2) COMMENCEMENT.—The period of ineligi-  
15 bility under this subsection shall begin on the date  
16 that a contractor makes a disclosure under section  
17 5 that, according to the criteria under such section,  
18 the contractor is doing or has done business with, or  
19 has a subsidiary that is doing or has done business  
20 with, a state sponsor of terrorism or foreign terrorist  
21 organization.

22 (3) PENALTIES FOR FAILURE TO DISCLOSE.—

23 In the event that the Administrator for Federal Pro-  
24 curement Policy determines that an entity is ineli-  
25 gible for a Federal contract under subsection (a) as



1 a result of a transaction or activity that the entity  
2 fails to disclose under section 5(a), the period of in-  
3 eligibility—

4 (A) shall begin on the date that the Ad-  
5 ministrator makes such determination; and

6 (B) may be extended by the Administrator  
7 for a period longer than the period otherwise  
8 applicable under paragraph (1) as a penalty for  
9 such failure to disclose.

10 (c) COMPLAINTS.—

11 (1) IN GENERAL.—Any United States citizen  
12 may file a complaint with an executive agency re-  
13 garding a Federal contractor that has committed an  
14 offense under this section.

15 (2) REPORT.—The head of each executive agen-  
16 cy shall submit to Congress an annual report on the  
17 complaints received by citizens under this sub-  
18 section, including the nature of the complaint and  
19 the manner in which the agency handled the com-  
20 plaint.

21 **SEC. 5. DISCLOSURE REQUIREMENTS.**

22 (a) CERTIFICATION.—Not later than 180 days after  
23 the date of the enactment of this Act, the Federal Acquisi-  
24 tion Regulation issued pursuant to section 25 of the Office  
25 of Federal Procurement Policy Act (41 U.S.C. 421) shall

1 be revised to require that every contractor that submits  
2 a bid for a government contract shall be required to sub-  
3 mit with such bid a certification describing—

4 (1) whether the contractor or the contractor's  
5 parent company has entered into a corporate expa-  
6 triation transaction after the date of the enactment  
7 of this Act; and

8 (2) whether the contractor, the contractor's do-  
9 mestic parent company, or any other domestic sub-  
10 sidiaries of the domestic parent company are doing  
11 business, or own a foreign subsidiary that is doing  
12 business, or has done business since the date of the  
13 enactment of this Act, with a state sponsor of ter-  
14 rorism or a foreign terrorist organization.

15 (b) INFORMATION SHARING.—The head of each exec-  
16 utive agency shall regularly transmit information disclosed  
17 pursuant to subsection (a) to the Administrator for Fed-  
18 eral Procurement Policy.

19 (c) DATABASE.—The Office of Federal Procurement  
20 Policy Act (41 U.S.C. 403 et seq.) is amended by adding  
21 at the end the following new section:

1 **“SEC. 43. DATABASE OF CORPORATE EXPATRIATION**  
2 **TRANSACTIONS AND TRANSACTIONS WITH**  
3 **STATE SPONSORS OF TERRORISM OR FOR-**  
4 **EIGN TERRORIST ORGANIZATIONS.**

5 “(a) DATABASE.—The Administrator for Federal  
6 Procurement Policy shall establish and maintain a data-  
7 base listing each contractor that, after the date of the en-  
8 actment of the Restoring Integrity in Contracting Act of  
9 2007—

10 “(1) has entered into a corporate expatriation  
11 transaction, or has a parent company that has en-  
12 tered into such a transaction; or

13 “(2) has done business with, or owns a foreign  
14 subsidiary that has done business with, a state spon-  
15 sor of terrorism or a foreign terrorist organization,  
16 or has a domestic parent company that has done, or  
17 has any other domestic subsidiaries that have done,  
18 such business.

19 “(b) COLLECTION OF INFORMATION.—The Adminis-  
20 trator shall establish and maintain the database under  
21 subsection (a) using information compiled from certifi-  
22 cations submitted by contractors pursuant to section 5(a)  
23 of the Restoring Integrity in Contracting Act of 2007.

24 “(c) CORPORATE EXPATRIATION TRANSACTION DE-  
25 FINED.—

1           “(1) IN GENERAL.—In this section, the term  
2           ‘corporate expatriation transaction’—

3                   “(A) means any transaction in which—

4                           “(i) a foreign corporation (referred to  
5                           in this section as the ‘acquiring corpora-  
6                           tion’) acquires, as a result of such trans-  
7                           action, directly or indirectly substantially  
8                           all of the properties held directly or indi-  
9                           rectly by a domestic corporation; and

10                           “(ii) immediately after the trans-  
11                           action, more than 80 percent of the stock  
12                           (by vote or value) of the acquiring corpora-  
13                           tion is held by former shareholders of the  
14                           domestic corporation by reason of holding  
15                           stock in the domestic corporation; and

16                   “(B) includes any transaction in which—

17                           “(i) a foreign corporation acquires, as  
18                           a result of such transaction, directly or in-  
19                           directly properties constituting a trade or  
20                           business of a domestic partnership; and

21                           “(ii) immediately after the trans-  
22                           action, more than 80 percent of the stock  
23                           (by vote or value) of the acquiring corpora-  
24                           tion is held by former partners of the do-  
25                           mestic partnership or related foreign part-

1                   nership (determined without regard to  
2                   stock of the acquiring corporation which is  
3                   sold in a public offering related to the  
4                   transaction).

5                   “(2) LOWER STOCK OWNERSHIP THRESHOLD  
6                   FOR CERTAIN ACQUIRING CORPORATIONS.—Clause  
7                   (ii) of paragraph (1)(A) shall be applied by sub-  
8                   stituting ‘50 percent’ for ‘80 percent’ with respect to  
9                   any foreign corporation if—

10                   “(A) such corporation does not have sub-  
11                   stantial business activities (when compared to  
12                   the total business activities of the expanded af-  
13                   filiated group) in the foreign country in which  
14                   or under the law of which the corporation is  
15                   created or organized; and

16                   “(B) the stock of the corporation is pub-  
17                   licly traded and the principal market for the  
18                   public trading of such stock is in the United  
19                   States.

20                   “(3) RULES FOR DETERMINING OWNERSHIP  
21                   AND SCOPE OF TRANSACTION.—For purposes of this  
22                   subsection—

23                   “(A) a series of related transactions shall  
24                   be treated as 1 transaction; and

1           “(B) stock held by members of the ex-  
2           panded affiliated group which includes the ac-  
3           quiring corporation shall not be taken into ac-  
4           count in determining ownership.

5           “(d) OTHER DEFINITIONS.—In this section:

6           “(1) DOMESTIC.—The term ‘domestic’ means  
7           created or organized in the United States or under  
8           the law of the United States or of any State.

9           “(2) EXPANDED AFFILIATED GROUP.—The  
10          term ‘expanded affiliated group’ means an affiliated  
11          group as defined in section 1504(a) of the Internal  
12          Revenue Code of 1986, without regard to section  
13          1504(b) of such Code.

14          “(3) FOREIGN SUBSIDIARY.—The term ‘foreign  
15          subsidiary’ means any foreign entity owned or con-  
16          trolled (directly or indirectly) by a potential con-  
17          tractor.

18          “(4) STATE SPONSOR OF TERRORISM.—The  
19          term ‘state sponsor of terrorism’ means any govern-  
20          ment which the Secretary of State has determined,  
21          for purposes of section 6(j) of the Export Adminis-  
22          tration Act of 1979 (50 U.S.C. App. 2405(j)), sec-  
23          tion 620A of the Foreign Assistance Act of 1961 (22  
24          U.S.C. 2371), section 40 of the Arms Export Con-  
25          trol Act (22 U.S.C. 2780), or any other provision of

1 law, to be a government that has provided support  
2 for acts of international terrorism.

3 “(5) FOREIGN TERRORIST ORGANIZATION.—

4 The term ‘foreign terrorist organization’ means a  
5 foreign terrorist organization designated under sec-  
6 tion 219 of the Immigration and Nationality Act (8  
7 U.S.C. 1189).”.